IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 728 of 2001 (S/B)
(Old No. 2946/1984)

Lila Pat Singh ……Petitioner

Versus

1. State of U.P. through Department of Food and Civil Supplies Lucknow.
2. The Regional Food Controller Garhwal Region Dehradun……Respondents.

Shri Anil Dabral, learned counsel for the petitioner.
Shri N.P. Sah, learned Standing Counsel for the State.

Hon'ble Prafulla C. Pant, J

By means of this petition, moved under Article 226 of Constitution of India, the petitioner, a adhoc employee, terminated from service, has sought writ in the nature of certiorari quashing the order dated 31.01.1984 (Annexure-2), order dated 23.01.1984 (Annexure-6) and order dated 11.01.1984 (Annexure 5), passed by the respondents.

2. Heard learned counsel for the parties and perused the record.

3. Brief facts of the case, as narrated in the writ petition are that the petitioner Lila Pat Singh was initially appointed on 01.03.1973, as a Senior Accounts Clerk in Meerut region in the Department of Food and Civil Supplies of the State of U.P. His appointment appears to be a seasonal one. From time to time, he was discharged from service and reappointed every year as is clear from

para-5 of the writ petition. At times, he was appointed to the post of Senior Account Clerk at times he alleges that he was appointed as Junior Accounts Clerk. Finally vide order dated 31.01.1984 (Annexure-2) his services were terminated by the Food Controller, Dehradun. The petitioner has challenged said order on the ground that he was an experienced person and his services were terminated without keeping in mind that he was fully qualified when he initially entered in the service. Accordingly to the petitioner, vide Government Order dated 28.02.1980, he was not required to be intermediate with Commerce and his appointment was a valid appointment. It is further stated in the writ petition that the change in qualification made thereafter was not applicable to the petitioner.

4. The respondents contested the petition and filed their counter affidavit in which it is stated that the petitioner has no right to continue in service, as he was and adhoc employee. The relaxation in qualification was not admissible to him, as mentioned in the Government Order dated 28.06.1982. The Government Order No. os0 vk0 & 1- 1082/nl& 34 ¼,e½ 83 dated 11.08.1983, relied by the petitioner was applicable only to the regular employees and the petitioner did not fall in that category. The Government Order No. 326/121/83 Adhi dated 23.01.1984, clearly provided that no relaxation would be provided in the qualification, required for the post held by the petitioner.

5. It is pertinent to mention here that Annexure-1 is the letter of appointment under which the petitioner was working on the post of Junior Accounts Clerk, whereafter his services were terminated. Annexure-1 to the writ petition itself shows that the appointment of the petitioner was of adhoc nature on a temporary post and his services can be dispensed with at any time. The appointment letter dated 01.12.1983 also shows that the petitioner was reappointed being a retrenched employee. It further provided that if the petitioner is not qualified for the post, his services can be terminated at any time.

6. Annexure-2 to the writ petition, which is the order of termination, indicates it is a simplicitor termination order of adhoc employee. It does not indicate any stigma of the petitioner. It is a settled principle of law that adhoc employee has no right to continue over a post for a indefinite period. A such, no right can be said to have been violated by the petitioner by the impugned order dated 31.01.1984, whereby his services were terminated.

7. Learned counsel for the petitioner drew attention of this Court that his qualification for being appointed as Accounts Clerk, can be seen at the time of his initial entry in the service and not thereafter. Had the petitioner not been retrenched earlier from the post, this Court could have accepted the argument but since the petitioner was appointed vide Annexure-1 to the petition in December 1983, at that time, and in the intermittent he was not service. Before he was reappointed, the minimum qualification had already been clarified by the Government Order. It is not the case of the petitioner

that he had obtained any relaxation on the point of qualification from the Government. In the circumstances, even if when the petitioner was initially appointed in the year 1973 as a seasonal employee, possessed minimum qualification as then applicable, after retrenchment, it cannot be said he was not required to fulfill the modified qualification, at the time of re-appointment.

8. For the reasons, as discussed above, this petition has no force and the same is liable to the dismissed. The writ petition is accordingly dismissed. No order as to costs.

Dt. 16.11.2006 **(Prafulla C. Pant, J.)**

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